

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOLEDAD  
APPROVING SOLEDAD POLICE DEPARTMENT POLICY MANUAL, POLICY 706-  
MILITARY EQUIPMENT**

**WHEREAS**, on September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481, relating to the use of military equipment by law enforcement agencies; and

**WHEREAS**, Assembly Bill 481 (AB 481), codified at California Government Code sections 7070 through 7075, requires law enforcement agencies to obtain approval of the applicable governing body, by an ordinance adopting a “military equipment” use policy at a regular meeting held pursuant to open meeting laws prior to taking certain actions relating to the funding, acquisition, or use of “military equipment.” The term “military equipment” is defined in California Government Code Section 7070; and

**WHEREAS**, AB 481 allows the City Council to approve the funding, acquisition, or use of military equipment, within its jurisdiction only if it makes specified determinations; and

**WHEREAS**, a proposed military equipment use policy is found within Soledad Police Department Policy Manual, Policy 706-Military Equipment; and

**WHEREAS**, the policy was published on \_\_, 2022 and displayed on the City of Soledad website on \_\_\_\_, 2022 and is being presented to the City Council for adoption on May \_\_, 2022.

**WHEREAS**, Soledad Police Department Policy 706 meets the requirements of California Government Code Section 7070; and

**WHEREAS**, the Council believes that with respect to Policy 706, 1) the identified equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety, 2) the policy will serve to safeguard the public’s welfare, safety, civil rights, and civil liberties, 3) in future instances in which equipment is to be purchased, the equipment will be reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety, and 4) corrective action has been taken, as necessary, to ensure that prior nonconforming use of military equipment is in compliance with new policies; and

**WHEREAS**, by approving Soledad Police Department Policy Manual Policy 706, the Council will be authorizing the limited use of identified “military equipment” by the members of the Soledad Police Department, and attendant annual reporting and approval of use of such equipment in accordance with Policy 706; and

**WHEREAS**, in the enactment of this ordinance, the City followed the guidelines adopted by the State of California and published in the California Code of Regulations, Title 14, Section 15000, et seq. and found this activity is not a “project” as defined by California Environmental

Quality Act (CEQA) because it is an organizational or administrative activity that will not result in direct or indirect physical changes in the environment.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOLEDAD DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** All of the recitals set forth above are true and correct and by this reference are adopted as findings of the City Council as though set forth in full within the body of this ordinance.

**SECTION 2.** The Council hereby approves City of Soledad Police Department Policy Manual Policy 706-Military Equipment, a copy of which is attached hereto and by this reference incorporated herein. A copy of approved Policy 706 will be added to the City’s website for continuous access by the Council, staff and the public.

**SECTION 3.** The City Manager is directed to execute all documents and to perform all other acts necessary to implement this Ordinance.

**SECTION 4.** If any provision, section, paragraph, sentence, clause or phrase of this ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

**SECTION 5.** This ordinance shall become effective on the thirtieth (30th) day following its passage and adoption hereof.

**PASSED AND ADOPTED** by the City Council of the City of Soledad this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

\_\_\_\_\_  
Anna M. Velazquez, the Honorable Mayor

ATTEST:

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Brent Slama, City Clerk

## Military Equipment

### 706.1 PURPOSE AND SCOPE

The Soledad Police Department does not participate in the 1033 Program and has not obtained any military equipment from the military, nor does it possess any equipment that was designed for military use. However, California Government Code § 7071(b) requires that law enforcement agencies submit a proposed Military Equipment Use Policy to their governing body for approval.

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of “military equipment” (Government Code § 7070; Government Code § 7071; Government Code § 7072). This policy is provided to fulfill the obligations set forth in Assembly Bill 481. These obligations include but are not limited to seeking approval on specific items deemed to be military equipment and requirements related to compliance, annual reporting, cataloging, and complaints regarding these items.

#### 706.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The elected or appointed body that oversees the Department.

Military equipment – any of a wide variety of items as defined by California Government Code section 7070, subsections (c)(1) through (c)(16) listed below:

1. Unmanned, remotely piloted, powered aerial or ground vehicles.
2. Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.
3. High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.
4. Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of a wheels for forward motion.
5. Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
6. Weaponized aircraft, vessels, or vehicles of any kind.
7. Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handled arm ram designed to be operated by one person, are specifically excluded from this subdivision.

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8. Firearms and ammunition of 50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.
9. Ammunition of 50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.
10. Specialized firearms and ammunition of less than 50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue weapons and ammunition of less than 50 caliber that are issued to officers, agents, or employees of a law enforcement agency or state agency.
11. Any firearm or firearm accessory that is designed to launch explosive projectiles.
12. "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard service-issued handheld pepper spray.
13. TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
14. Projectile launch platforms and their associated munitions: 40 mm projectile launchers, "bean bag," rubber bullet, and specialty impact (SIM) weapons.
15. Any other equipment as determined by a governing body or a state agency to require additional oversight.
16. Notwithstanding paragraphs (1) through (15), "military equipment" does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

The bold items above are the current recognized specialized "military equipment" purchased and used by the Soledad Police Department.

### **706.2 POLICY REQUIREMENTS**

California Government Code § 7070(d) describes a Military Use Equipment as a publicly released, written document that includes, at a minimum the following:

1. A description of each type of Military Equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the Military Equipment.
2. The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of Military Equipment.
3. The fiscal impact of each type of Military Equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
4. The legal and procedural rules that govern each authorized use.
5. The training, including any course required by the Commission on Peace Officer

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Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of Military Equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the Military Equipment use policy.

6. The mechanisms to ensure compliance with the Military Equipment use policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.
7. For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of Military Equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

### **706.3 POLICY**

It is the policy of the Soledad Police Department that members of this department comply with the provisions of Government Code §7071 with respect to military equipment. It is also the policy of the Soledad Police Department that there are legally enforceable safeguards, including transparency, oversight and accountability measures in place to protect the public's welfare, safety, civil rights, and civil liberties before military equipment is funded, acquired, or used.

The acquisitions of military equipment and its deployment in our communities may impact the public's safety and welfare. The public has a right to know about any funding, acquisition, or use of military equipment by local government officials, as well as a right to participate in any government agency's decision to fund, acquire, or use such equipment. Decisions regarding whether and how military equipment is funded, acquired, or used should give strong consideration to the public's welfare, safety, civil rights, and civil liberties, and should be based on meaningful public input.

### **706.4 MILITARY EQUIPMENT COORDINATOR**

The Chief of Police and Deputy Chief will serve as the military equipment coordinators. The responsibilities of the military equipment coordinator include but are not limited to:

1. Acting as liaison to the City Council for matters related to the requirements of this policy.
2. Identifying department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.
3. Conducting an inventory of all military equipment at least annually.
4. Collaborating with any allied agency that may use military equipment within the jurisdiction of the Soledad Police Department (Government Code § 7071).
5. Preparing for, scheduling, and coordinating the annual community engagement

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meeting to include:

6. Publicizing the details of the meeting.
7. Preparing for public questions regarding the department's funding, acquisition, and use of equipment.
8. Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website (Government Code § 7072).
9. Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Department will respond in a timely manner.

### **706.5 MILITARY EQUIPMENT INVENTORY**

The following constitutes a list of qualifying "military equipment" for the Department see attached:

Military Equipment List

Current

Desired (none at this time.)

Other Jurisdictions (Department will provide cross-references to other Policies.)

### **706.6 APPROVAL**

The Chief of Police or the authorized designee shall obtain approval from the City Council by way of an ordinance adopting the military equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the department website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military equipment policy must be approved by the City Council prior to engaging in any of the following (Government Code § 7071):

1. Requesting military equipment made available pursuant to 10 USC § 2576a.
2. Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
3. Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
4. Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.
5. Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
6. Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate

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in the use of military equipment.

7. Acquiring military equipment through any means not provided above.

### **706.7 COORDINATION WITH OTHER JURISDICTIONS**

Military equipment used by any member of this jurisdiction shall be approved for use and in accordance with this Department policy. Military equipment used by other jurisdictions that are providing mutual aid to this jurisdiction shall comply with their respective military equipment use policies in rendering mutual aid.

### **706.8 ANNUAL REPORT**

The Chief of Police or the authorized designee shall submit a military equipment report to the City Council for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072). The Chief of Police or the authorized designee shall also make each annual military equipment report publicly available on the department website for as long as the military equipment is available for use.

The report shall include the following information for the immediately preceding calendar year as required by Government Code § 7072 for each type of military equipment in department inventory.

1. A summary of how the military equipment was used and the purpose of its use.
2. A summary of any complaints or concerns received concerning the military equipment.
3. The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.
4. The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.
5. The quantity possessed for each type of military equipment.
6. If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

### **706.9 COMMUNITY ENGAGEMENT**

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

### **706.10 COMPLIANCE**

The Soledad Police Department is committed to responding to complaints, concerns, and



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questions received in a timely manner. Members of the public wishing to make a complaint, ask a question or express a concern can do so by any of the following means:

1. Via email to: [soledadpolice@cityofsoledad.com](mailto:soledadpolice@cityofsoledad.com)
2. Via phone call to: Deputy Chief 831-223-5121
3. Via mail sent to: Soledad Police Department, 236 Main Street, Soledad, CA 93966
4. Via in person by responding to the above address

## **Attachments**

## **Military Equipment List**